

FINDING OF NO SIGNIFICANT IMPACT

Fly Canyon Exclosure Environmental Assessment DOI-BLM-NV-W030-2015-0013-EA

Based on the Environmental Assessment (EA) DOI-BLM-NV-W030-2015-0013-EA, dated July 2015, I have determined that the Proposed Action with the project design specifications identified in the EA will not significantly affect the quality of the human environment; therefore, an Environmental Impact Statement (EIS) will not be required.

I have determined that the proposed action is in conformance with the approved Resource Management Plan (July 2004) for the Black Rock-Desert-High Rock Canyon Emigrant Trails National Conservation Area and Associated Wilderness and other Contiguous Lands in Nevada, the 2012 Winnemucca District Wilderness Management Plan, and is "...consistent with other Federal Agency, state, and local plans to the maximum extent consistent with Federal law and Federal Land Policy Management Act (FLPMA) provisions" (BLM Land Use Planning Handbook H-1601-1). This finding and conclusion is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), with regard to both context and intensity factors.

No additional mitigation measures were identified as part of the EA process.

Context

The project area is located in Fly Canyon, which is approximately 48 miles north-northeast of Gerlach, and approximately 1 mile south of Soldier Meadows Area of Critical Environmental Concern (ACEC) in Humboldt County, Nevada. The proposed project is also located within the High Rock Lake Wilderness (HRLW), designated with the passage of the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Act in 2000, and amended 2001. The project area contains habitat for the desert dace, a federally threatened fish species as listed in 1985 by the U.S. Fish and Wildlife Service (FWS) under provisions of the Endangered Species Act. At the time of listing, critical habitat was also listed, that encompasses 50 feet on each side of designated thermal springs and their outflow streams in the area of Soldier Meadows.

In 2004, with the issuance of the decision on the *Resource Management Plan for Black Rock Desert-High Rock Canyon Emigrants Trails National Conservation Area and Associated Wilderness, and other Contiguous Lands in Nevada* (BRRMP), the Soldier Meadows Area of Critical Environmental Concern (ACEC) was designated. The designation was based on the presence of the Desert Dace and other sensitive species (BRRMP 2-18).

In 2010, the Nevada Department of Wildlife (NDOW) discovered a separate population of Desert Dace outside of the ACEC in a geothermal spring in Fly Canyon, located in the HRLW. This population was unknown at the time the Critical Habitat was designated by the FWS.

Although the location of the spring is outside of a wild horse and burro Herd Management Area (HMA) or Herd Area (HA), evidence of heavy wild horse use is noted at this location. The population of Desert Dace in Fly Canyon was seen at immediate risk of harm from wild horse and burro use of the spring. NDOW submitted a letter telling the BLM it was an emergency

situation on February 25, 2015. On February 27, 2015, the FWS wrote the BLM also stating the situation constituted an emergency.

On March 24, 2015 the WD BLM granted authorization for NDOW to construct an enclosure. In conformance with BLM Manual 6340, the BLM completed a Minimum Requirements Decision Guide (MRDG) worksheet (EA Appendix B). It was determined the proposed action was a necessary action for administration of the wilderness area in order to protect the population of the threatened species. Through the MRDG process, it was determined the proposed methodology of implementation met the minimum necessary to meet the objectives of the proposed action.

On March 26, 2015 NDOW constructed a pipe-rail enclosure approximately 75' x 150' around the spring in Fly Canyon. This project was the response to the emergency conditions of the desert dace habitat in Fly Canyon and is designed to protect the desert dace in Fly Canyon from being extirpated (locally extinct).

Intensity

1) *Impacts that may be both beneficial and adverse.*

The EA has considered both beneficial and adverse impacts of the installation and the perpetuity of the Fly Canyon Enclosure. Implementation of the proposed action is anticipated to have beneficial impacts to the Desert Dace by protecting the habitat and the fish from wild horse and burro use of the spring.

2) *The degree to which the proposed action affects public health or safety.*

The proposed action will have no impact on public health and safety.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

The project area contains Desert Dace habitat, which is an ecologically critical area. The project area is within the High Rock Lake Wilderness (HRLW) and within the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area (NCA). Management of activities within wilderness areas is guided by designating legislation, regulations, policies, and local plans.

The HRLW was designated with the passage of the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Act (2000) (Amended 2001) (NCA Act). The recommendation for wilderness was, in part, due to exceptional naturalness and a complex of important wildlife values. The NCA Act provides that nothing in the Act diminishes the jurisdiction of the State of Nevada with respect to fish and wildlife management (Sec. 8(c)). The BLM may authorize use of wilderness areas to carry out the purposes of the Wilderness Act or other Federal statutes. (43 CFR6303.1). Actions that impair one or more qualities of wilderness character may be allowed under certain limited circumstances. (BLM Manual 6340 Sec. 1.6 A.6.a.iii.). To protect threatened species, necessary actions, including habitat manipulation and special protection measures, may be implemented in wilderness to a degree greater than for unlisted species. Wilderness impairing actions must be necessary for the protection or recovery of the species. (BLM Manual 6340 Sec. 1.6 C.21.c.iv.)

There are no park lands, prime farmlands, or wild and scenic rivers within proximity to the project area.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

On February 25, 2015, a Dear Interested Public Letter (DIPL) was sent to the public regarding the condition of the spring in Fly Canyon and the need for emergency action.

On March 6, 2015, the project information was also shared with the public during a 30 day Notification of Proposed Action (NOPA) process due to the project being in wilderness.

Comments were received from the DIPL and NOPA process. Some of the comments were from NDOW, FWS, Desert Trail Association, and Friends of Nevada Wilderness which supported the project to protect desert dace. Other comments from the public were listed in “Table 1-1 Scoping, Public Involvement, and Issues” of the Fly Canyon Exclusion EA. These comments were addressed in the appropriate sections, as identified in Table 1-1.

Because the concerns for the project were addressed in the Fly Canyon Exclusion EA, there were no anticipated effects identified that were highly controversial.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

There are no known effects of the proposed action identified in the EA which are considered uncertain or involve unique or unknown risks.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

The proposed actions will not establish a precedent for future actions with significant effects and does not represent a decision in principle about a future consideration.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*

No significant cumulative impacts have been identified in the EA. Due to the relative small scale of the project and the protective actions associated with the HRLW few other surface disturbing projects are anticipated. When evaluated together with other past, present or reasonable foreseeable activities in the area, the proposed action does not result in cumulatively significant impacts at the local or watershed scale.

8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.*

No sites eligible for listing in the National Register of Historic Places (NRHP) were identified within the project area and EA. No actions are foreseen that would result in the loss or destruction of significant scientific, cultural, or historic resources.

9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.*

The Desert Dace are a threatened species with habitat present within the project area. The project will improve protection for this species from wild horse and burro and livestock use of the spring and therefore will be beneficial to the Desert Dace.

10) *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

The proposed action does not violate or threaten any known Federal, State, or local law or requirement imposed for the protection of the environment.

/S/ Gene Seidlitz
Gene Seidlitz
District Manager
Winnemucca District

7/17/2015
Date